

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Marc E. Hirschfield
Nicholas J. Cremona
Oren J. Warshavsky
George Klidonas
Dominic A. Gentile

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

Adv. Pro. No. 10-04570 (SMB)

v.

JACOB M. DICK REV LIVING TRUST DTD
4/6/01, individually and as tenant in common,

ESTATE OF JACOB M. DICK, as grantor of the
Jacob M. Dick Rev Living Trust Dtd 4/6/01,

ANDREA J. MARKS, as trustee and beneficiary of
the Jacob M. Dick Rev Living Trust Dtd 4/6/01, as
executor and beneficiary of the Estate of Jacob M.
Dick, and as trustee of the Article 8.1 Trust created
under the Jacob M. Dick Rev Living Trust Dtd
4/6/01,

R. D. A., a minor, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

RIO JOCELYN BREEN, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

ARTICLE 8.1 TRUST,

SUZANNE BREEN, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

DOUGLAS J. STURLINGH, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

Defendants.

TRUSTEE'S REQUEST TO ENTER DEFAULT

To: CLERK OF THE COURT
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against defendant Douglas J. Sturlingh, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

WHEREFORE, the Trustee respectfully requests that this Court grant the Trustee's

Motion in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York
June 24, 2014

Respectfully submitted,

/s/ George Klidonas

BAKER & HOSTETLER LLP

45 Rockefeller Plaza

New York, New York 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

Email: dsheehan@bakerlaw.com

Marc E. Hirschfield

Email: Marc E. Hirschfield

Nicholas J. Cremona

Email: ncremona@bakerlaw.com

Oren J. Warshavsky

Email: owarshavsky@bakerlaw.com

George Klidonas

Email: gklidonas@bakerlaw.com

Dominic A. Gentile

Email: dgentile@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
And Bernard L. Madoff*

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Marc E. Hirschfield
Nicholas J. Cremona
Oren J. Warshavsky
George Klidonas
Dominic A. Gentile

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

Adv. Pro. No. 10-04570 (SMB)

v.

JACOB M. DICK REV LIVING TRUST DTD
4/6/01, individually and as tenant in common,

ESTATE OF JACOB M. DICK, as grantor of the
Jacob M. Dick Rev Living Trust Dtd 4/6/01,

ANDREA J. MARKS, as trustee and beneficiary of
the Jacob M. Dick Rev Living Trust Dtd 4/6/01, as
executor and beneficiary of the Estate of Jacob M.
Dick, and as trustee of the Article 8.1 Trust created
under the Jacob M. Dick Rev Living Trust Dtd
4/6/01,

R. D. A., a minor, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

RIO JOCELYN BREEN, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

ARTICLE 8.1 TRUST,

SUZANNE BREEN, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

DOUGLAS J. STURLINGH, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01,

Defendants.

AFFIDAVIT SUPPORTING ENTRY OF DEFAULT

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

George Klidonas, being duly sworn, hereby attests as follows:

1. I am a member of the Bar of this Court and an associate at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard ("Trustee"), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA") and the estate of Bernard L. Madoff, individually.

2. On December 1, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the "Complaint") against, *inter alia*, Douglas J. Sturlingh. (Dkt. No. 1.) The Complaint asserted claims pursuant to sections 78fff(b), 78fff-1(a) and 78fff-

2(c)(3) of SIPA, sections 105(a), 544, 548(a)(1), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of the defendants, including Douglas J. Sturlingh (*Id.*).

3. On March 7, 2011, the Clerk of this Court issued a summons upon the defendants, including Douglas J. Sturlingh. (Dkt. No. 3.)

4. On March 11, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon Douglas J. Sturlingh. (*See* Dkt. No. 4.) An Affidavit of Service evidencing proper and timely service was filed with the Court. (Dkt. No. 4.)

5. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions and (2) Amending the February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, the time by which Douglas J. Sturlingh may answer or otherwise move with respect to the Complaint was set to expire on May 6, 2011. (*Id.*)

6. On April 20, 2011, Becker & Poliakoff LLP entered its appearance as counsel for the following defendants:

- a. Rio Jocelyn Breen, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01 (*See* Dkt. Nos. 5 & 6.);
- b. Suzanne Breen, as beneficiary of the Estate of Jacob M. Dick and the Jacob M. Dick Rev Living Trust Dtd 4/6/01 (*See* Dkt. Nos. 5 & 6.);
- c. Jacob M. Dick Rev. Living Trust Dtd 4/6/01, individually and as tenant in common (*See* Dkt. Nos. 9 & 10.);

- d. Estate of Jacob M. Dick, as grantor of the Jacob M. Dick Rev Living Trust Dtd 4/6/01 (*See* Dkt. Nos. 9 & 10.);
- e. Andrea J. Marks, as trustee and beneficiary of the Jacob M. Dick Rev Living Trust Dtd 4/6/01, as executor and beneficiary of the Estate of Jacob M. Dick, and as trustee of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01 (*See* Dkt. Nos. 9 & 10.);
- f. R. D. A., a minor, as beneficiary of the Article 8.1 Trust created under the Jacob M. Dick Rev Living Trust Dtd 4/6/01 (*See* Dkt. Nos. 9 & 10.); and
- g. Article 8.1 Trust (*See* Dkt. Nos. 9 & 10.).

7. A notice of appearance for Douglas J. Sturlingh has not been filed by any attorneys.

8. On a number of occasions, the Trustee and the answering defendants stipulated and agreed that the time by which they may answer or otherwise respond to the Complaint would be postponed. The most recent Stipulation Extending Time to Respond prolonged the time to respond to the Complaint to November 1, 2013. (Dkt. No. 27.)

9. Despite being duly served with the Summons and Complaint, Douglas J. Sturlingh did not file an answer, move, or otherwise respond to the Complaint.

10. Upon information and belief, the Douglas J. Sturlingh is neither an infant nor incompetent.

11. On April 2, 2014, I performed a search on the Department of Defense Manpower Data Center (DMDC). Upon searching the information data banks of DMDC, the DMDC does not possess any information indicating that Douglas J. Sturlingh is currently on active duty as to all branches of the Military.

12. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

/s/ George Klidonas
George Klidonas

Sworn to before me this
24th day of June 2014

Marion Sarcuni
Notary Public

MARION SARCUNI
Notary Public, State of New York
No. 01SA4973543
Qualified in Nassau County
Commission Expires 12/05/2014